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## STATE OF MONTANA

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## MEMORANDUM

TO: Representative Scott Mendenhall  
Chairman, Business and Labor Committee  
Montana House of Representatives

FROM: Annie Goodwin, Commissioner  
Division of Banking and Financial Institutions

CC: Business and Labor Committee  
Montana House of Representatives

DATE: February 8, 2007

SUBJECT: Banking Division Legislation

The Division of Banking and Financial Institutions proposed five bills during the 2007 Legislative Session. The bills address a different area of existing or proposed licensing, which includes the Consumer Loan Act, the Deferred Deposit Loan Act, the Title Loan Act, the Mortgage Broker and Loan originator Licensing Act and a new licensing act which would govern the oversight of mortgage lenders. These five licensees are governed by separate laws and each offer a distinct financial product to Montana consumers.

The Division's payday loan, title loan and mortgage broker bills have passed the Senate and have been transmitted to the House. The Division is hopeful that the House Business and Labor Committee will consider our consumer loan and mortgage lender bills.

**House Bill 69 (Mortgage Lender)** – This legislation provides for licensing and regulation of residential mortgage lenders. The regulation of mortgage lenders is limited to second lien mortgage loans at an interest rate that exceeds 15%; no law governs first mortgage transactions. This limits the Division to regulating a very small percentage of mortgage loans made by lenders to Montana consumers.

Our division has worked with both the Montana Association of Mortgage Brokers and the Montana Consumer Finance Association on this bill. Both associations support it.

**House Bill 141 (Consumer Loan)** – The Division has worked with the Montana Consumer Finance Association which consist of the consumer loan licensees governed by the law. The association supports the bill.

The amendment to the Montana Consumer Loan Act would delete references to mortgages. The Act would govern the lenders who provide secured or unsecured loans made primarily for personal property. References to mortgages have been deleted because they would now be regulated under the proposed House Bill 69. The proposed amendments to the Act pertain to enforcement. These amendments are similar to what is found in other licensing laws that the Division administers. The Division has proposed to increase the initial and renewal licensing fees. This increase is needed to cover the Division's increased expenses in administering the cost of this program. The licensing fee under this Act has not been raised since 1975.

**Senate Bill 74 (Title Loan)** – A title loan is a loan secured by an unencumbered certificate of title. The amendment to the Montana Title Loan Act requires pawnbrokers to obtain licensure if they are making title loans. The Division also proposed amendments that pertain to due process for the licensee and strengthened division enforcement authority. The amendments are similar to what is found in other licensing laws that the Division administers.

There was no opposition to this bill before the Senate Judiciary committee.

**Status:** Passed Senate, Transmitted to House

**Senate Bill 92 (Mortgage Broker)** – This revision to the Montana Mortgage Broker and Loan Originator Licensing Act would provide amendments to clarify the Act, which was passed in the 2003 Legislative Session. The Division proposed amendments to provide for due process of the licensee and strengthen the Division's which enforcement authority. These new sections are similar to what is found in other licensing laws that the Division administers.

The Montana Association of Mortgage Brokers supports this bill.

There was no opposition to this bill before the Senate Business, Labor and Economic Affairs committee.

**Status:** Passed Senate, Transmitted to House

**Senate Bill 165 (Payday Loan)** – A payday/deferred deposit loan is an unsecured loan in which a lender accepts a check or electronic authorization for presentment on a specified date. Several amendments are proposed to the Montana Deferred Deposit Loan Act. These amendments would include prohibiting that a lender make a loan to a borrower with an outstanding payday loan and having the Division conduct examinations at its discretion rather than be required annually. The Division also proposed amendments to provide for due process of the licensee and strengthen the Division's enforcement authority.

The amendments are similar to what is found in other licensing laws that the Division administers. The Division has proposed to increase the initial and the renewal license fees. This increase is needed to cover the Division's increased expenses in administering the cost of this program. The licensing fees under this Act have not been raised since the Act was passed in 1999.

The Montana Financial Services Association supports the bill.

There was no opposition to this bill before the Senate Business, Labor and Economic Affairs committee.

**Status:** Passed Senate, Transmitted to House

If you have any questions, please contact me at 841-2927.

Thank you.